

REMARKS

Reconsideration of the patent term adjustment under 35 U.S.C. § 154(b) is respectfully requested. A Notice of Allowance was issued for U.S. Patent Application number 09/755,448 with a term adjustment of 743 days. A correction of the patent term adjustment to add at least 215 days to the patent term as shown below is respectfully requested.

The patent term adjustment for this U.S. patent application is calculated as shown below. Dates are specified based on the Patent Application Information Retrieval (PAIR) System Patent Term Adjustment History, attached as Exhibit A. Note that this application is not subject to a terminal disclaimer.

Period of adjustment under 37 C.F.R. § 1.703(a)

The period of adjustment under 37 C.F.R. § 1.703(a) is the number of days in the period beginning on the day ("the 14 month date") after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. § 111(a) and ending on the date of mailing of either an action under 35 U.S.C. § 132 or a notice of allowance under 35 U.S.C. § 151, whichever comes first.

The present application was filed on September 12, 2000. The 14 month date specified in 37 C.F.R. § 1.703(a) is November 12, 2001. The first PTO action on the merits was an office action rejecting Claims 1-9 was mailed on January 20, 2004. The difference between the 14 month date and this Office Action date is 777 days.

Period of adjustment under 37 C.F.R. § 1.703(b)

The period of adjustment under 37 C.F.R. § 1.703(b) is the number of days in the period beginning on the day ("the 3 year date") after the date that is three years after the date on which the application was filed under 35 U.S.C. § 111(a).

The present application was filed on September 12, 2000. The 3 year date specified in 37 C.F.R. § 1.703(b) is September 12, 2003. This application has not issued as of yet, but the difference between the Notice of Allowance and the three year date is 321 days. However, these days overlap with 106 days of delay measured from the fourteenth month date under 37 C.F.R. § 1.703(a). Accordingly, 215 days are not double counted under 37 C.F.R. § 1.703(f).

Reduction in period of adjustment under 37 C.F.R. § 1.704(b)

With respect to the grounds for adjustment set forth in 37 C.F.R. § 1.703(a)-(e), an applicant is deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods or time in excess of three months that are taken to reply to any notice or action by the Office. Any such three month period is measured from the date the notice or action was mailed to the applicant. The period of adjustment set forth in 37 C.F.R. § 1.703(b) shall be reduced by the number of days beginning on the day ("the 3 month date") after the date that is three months after the date of mailing of the Office communication.

In the present application, an Office Action was mailed on April 20, 2004. The 3 month date for this communication is July 20, 2004. The Response to this Action was received on August 23, 2004. Therefore, 34 days were assessed against the Applicants.


Total patent term adjustment

For the present application, the total patent term adjustment under 37 C.F.R. § 1.703(f) is the period of adjustment under 37 C.F.R. § 1.703 reduced by the required reduction of days under 37 C.F.R. § 1.704. The total adjustment is the sum of the § 1.703(a) days plus the § 1.703(b) days, minus the § 1.703(f) overlap exclusion minus the § 1.704(b) excess beyond three months that was incurred by the Applicants' response to the Office Action. The total adjustment is thus 777 days + 215 days – 34 days = 958 days as of the date of allowance, June 25, 2004. Applicants respectfully request that these days and any remaining days between now and the date of issuance be included in the Patent

Term Adjustment as well, since this time period remains within the 37 C.F.R § 1.703(b) definition of the three year date.

It is respectfully submitted that in the calculation of the patent term adjustment determined for U.S. patent application number 09/755,448, the term was adjusted without regard to the three year date of § 1.703(b) and the sum of the allowable periods per § 1.703 (f). Accordingly, Applicants respectfully request reconsideration of the patent term adjustment for this U.S. patent application. The fee according to 37 C.F.R. § 1.18(e) accompanies this request. Office personnel are invited to contact the undersigned Attorney for the Applicant via telephone if such communication would expedite this request.

Respectfully submitted,



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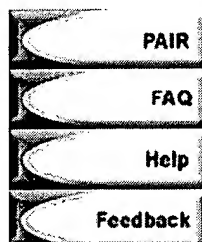
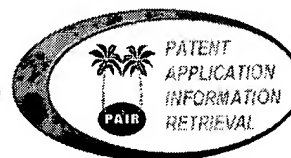
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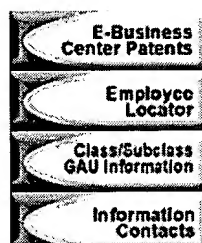
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Patent Term Adjustment (PTA) for application number: 09/755,448			
			Days
Filing or 371(c) Date:	01-05-2001	USPTO Delay (PTO):	777
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL):	34
Post-Issue Petitions (days):	+0	Total PTA:	743
USPTO Adjustment (days):	+0	Explanation of Calculations	

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File History

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Foreign Priority

Image File Wrapper

Published Documents

Patent Term Adjustment History			
Date	Contents Description	PTO (days)	APPL (days)
11-22-2004	Mail Notice of Allowance		
11-22-2004	Mail Examiner's Amendment		
11-18-2004	Notice of Allowance Data Verification Completed		
11-18-2004	Case Docketed to Examiner in GAU		
11-18-2004	Issue Revision Completed		
11-17-2004	Examiner's Amendment Communication		
11-17-2004	Notice of Allowability		
10-25-2004	Date Forwarded to Examiner		
08-23-2004	Response after Non-Final Action		34
08-23-2004	Request for Extension of Time - Granted		↑
10-25-2004	IFW TSS Processing by Tech Center Complete		↑
08-23-2004	Workflow incoming amendment IFW		↑
04-20-2004	Mail Non-Final Rejection	777	↑
04-19-2004	Non-Final Rejection	↑	
03-19-2004	Information Disclosure Statement (IDS) Filed	↑	
03-18-2004	Case Docketed to Examiner in GAU	↑	
11-14-2003	Information Disclosure Statement (IDS) Filed	↑	
03-12-2002	Case Docketed to Examiner in GAU	↑	
06-19-2001	Case Docketed to Examiner in GAU	↑	
01-05-2001	Information Disclosure Statement (IDS) Filed	↑	
	Request for Foreign Priority (Priority Papers May		

01-05-2001	Be Included)	↑	
06-01-2001	Application Dispatched from OIPE	↑	
02-21-2001	Application Is Now Complete	↑	
05-31-2001	Correspondence Address Change	↑	
02-21-2001	Notice Mailed--Application Incomplete--Filing Date Assigned	↑	
02-21-2001	Correspondence Address Change	↑	
02-21-2001	Correspondence Address Change	↑	
01-26-2001	IFW Scan & PACR Auto Security Review	↑	
01-05-2001	Initial Exam Team nn	↑	

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